

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALLEN K. SMITH,

Plaintiff,

v.

Civil Case No. 23-11582
Honorable Linda V. Parker

CREDIT PROS INTERNANTIONAL, LLC,

Defendant.

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO AMEND
AND DENYING AS MOOT DEFENDANT'S MOTION TO DISMISS**

Plaintiff initiated this lawsuit on June 30, 2023, alleging that Defendant violated the Credit Repair Organizations Act, 15 U.S.C. § 1679. On August 23, 2023, Defendant filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6). (ECF No. 10.) Plaintiff filed a motion to amend the complaint on September 13, 2023. (ECF No. 11.)

Plaintiff did not need to seek leave of the Court to amend her Complaint.

Federal Rule of Civil Procedure 15(a) provides in relevant part:

A party may amend its pleading once as a matter of course within:

...

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Fed. R. Civ. P. 15(a)(1)(B). Plaintiff filed his motion seeking leave to amend his Complaint within twenty-one days after service of Defendant's Rule 12(b) motion. Therefore, Plaintiff's motion must be granted pursuant to Rule 15(a)(1)(B).

Plaintiff's Amended Complaint supersedes his original pleading to which Defendant's motion to dismiss is directed. As such, Defendant's motion to dismiss is moot. *See Glass v. The Kellogg Co.*, 252 F.R.D. 367, 368 (W.D. Mich. 2008) (citing cases).

Accordingly,

IT IS ORDERED that Plaintiff's motion to amend (ECF No. 11) is **GRANTED** and Plaintiff shall file his Amended Complaint within seven (7) days of this Opinion and Order;

IT IS FURTHER ORDERED that Defendant's motion to dismiss (ECF No. 10) is **DENIED AS MOOT**.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: November 3, 2023